

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROBERT WILLIAM ELMORE,

Plaintiff,

v.

Civil Action No. 1:24-cv-18

MORGANTOWN JUSTICE DEPARTMENT,
et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 11]
AND DISMISSING CASE WITHOUT PREJUDICE

On February 9, 2024, the pro se Plaintiff, Robert William Elmore ("Plaintiff"), filed a Complaint against the Defendants. ECF No. 2. Pursuant to 28 U.S.C. § 636 and the local rules, the United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") reviewed the case in accordance with 28 U.S.C. § 1915(e)(2) [ECF No. 11].

On April 22, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R") [ECF No. 11], recommending that Plaintiff's complaint [ECF No. 2] be dismissed without prejudice for failure to state a claim and that Plaintiff's motion to proceed in forma pauperis [ECF No. 1] be denied. The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis

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for such objection.” It further warned them that the “[f]ailure to timely file objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” ECF No. 11 at 8-9. Plaintiff accepted service on April 27, 2024. ECF No. 14. To date, no objections to the R&R have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). An objection must be specific and particularized to warrant such review. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007). Otherwise, the Court will uphold portions of a recommendation to which a general objection or no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Midgette, 478 F.3d at 622.

The Court has reviewed the R&R for clear error. Diamond, 416 F.3d at 315. Because the Court **FINDS** dismissal appropriate, the Court **ADOPTS** the R&R in its entirety [ECF No. 11], **DENIES** Plaintiff’s motion to proceed in forma pauperis [ECF No. 1], and **DISMISSES WITHOUT PREJUDICE** Plaintiff’s complaint [ECF No. 2]. The Court **DIRECTS** the Clerk to strike this case from the Court’s active docket.

It is so **ORDERED**.

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The Clerk shall transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested.

DATED: May 14, 2024



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA